



ATTN: CERTIFICATE OF CORRECTION BRANCH
PATENT

Copied

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Yang, Shumin
McCall, Catherine A.
Weber, Eric R.

Patent No.: 7,183,080 B2

Issued: February 27, 2007

Serial No.: 10/787,382

Filed: February 24, 2004

Atty. File No.: IM-2-C1-C1-1

For: "CANINE IL-5 NUCLEIC ACID
MOLECULES"

) Customer No.: 26949

) REQUEST FOR
) CERTIFICATE OF CORRECTION

CERTIFICATE OF MAILING	
I HEREBY CERTIFY THAT THIS CORRESPONDENCE AND THE DOCUMENTS REFERRED TO AS ENCLOSED HEREIN ARE BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL, ADDRESSED TO COMMISSIONER FOR PATENTS, ATTN: CERTIFICATE OF CORRECTION BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, THIS <u>11</u> DAY OF JUNE 2007.	
By:	<u>Susan Gordon</u> Susan Gordon

Commissioner for Patents
ATTN: Certificate of Correction Branch
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is a request for a Certificate of Correction under 37 C.F.R. 1.322(a). Attached is Form PTO-1050. The errors in this patent are typographic or scanning errors made by the USPTO. The undersigned requested the correction to the title in its Fee Transmittal and Request for Correction filed October 20, 2006. In addition, the title was amended in the Amendment and Response filed January 31, 2005, acknowledged and received by the Examiner in the Final Office Action, dated April 20, 2005. The corrections in the claims are supported by claim amendments submitted in the Amendment and Response, filed April 4, 2006, and acknowledged and accepted by the Examiner in the Notice of Allowance, dated July 21, 2006 (see copies of documents attached). The errors are as follows:

Page 1, in the title: remove "CANNIE" and replace with --CANINE--

Column 10, line 8, remove "PCaIL-5,₃₄" and replace with --PCaIL-5₁₃₄.

Certificate
JUN 18 2007
of Correction

JUN 18 2007

Column 25, line 38, remove "IL-S" and replace with --IL-5--

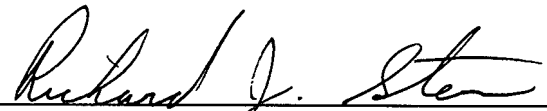
Claim 5, column 41, line 39, remove "front" and replace with --from--

Claim 7, column 42, line 34, remove "nocleic" and replace with --nucleic--

Respectfully submitted,

Dated: June 11, 2007

By:



Richard J. Stern, Ph.D.

Registration No. 50,668

Heska Corporation

3760 Rocky Mountain Ave.

Loveland, Colorado 80538

Telephone: 970-493-7272

Facsimile: (970) 619-3011

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 7,183,080
APPLICATION NO.: 10/787,382
ISSUE DATE : Feb. 27, 2007
INVENTOR(S) : Shumin Yang, Catherine A. McCall, Eric R. Weber

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Page 1, in the title: remove "CANNIE" and replace with --CANINE--
Column 10, line 8, remove "PCaIL-5₃₄" and replace with --PCaIL-5₁₃₄.
Column 25, line 38, remove "IL-S" and replace with --IL-5--
Claim 5, column 41, line 39, remove "front" and replace with --from--
Claim 7, column 42, line 34, remove "nocleic" and replace with --nucleic--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Heska Corporation, Intellectual Property Dept., 3760 Rocky Mountain Ave., Loveland, Colorado 80538

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JUN 18 2007



ATTN: MAIL STOP ISSUE FEE
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Yang, Shumin
McCall, Catherine A.
Weber, Eric R.

) Group Art Unit: 1633
)
) Examiner: Kaushal, Sumesh
)

) FEE TRANSMITTAL AND
) REQUEST FOR CORRECTION
)

Serial No.: 10/787,382

Filed: February 24, 2004

Atty. File No.: IM-2-C1-C1-1

For: "CANINE IL-5 NUCLEIC ACID
MOLECULES"

<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL, ADDRESSED TO MAIL STOP ISSUE FEE, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, THIS 20TH DAY OF OCTOBER 2006.</p> <p style="text-align: center;">HESKA CORPORATION</p> <p>By: <u>Susan A. Gordon</u> Susan A. Gordon</p>

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants submit herewith the "Part B.- Fee(s) Transmittal" (Form PTOL-85). Applicants claim small entity and authorize the fee of \$1015 (issue fee, \$700; publication fee, \$300; 5 advance order copies, \$15) be charged to Deposit Account 081930.

Applicants note that the title on Form PTOL-85 is in error, specifically the word "CANNINE". Applicants request the title be corrected to read as follows:

--CANINE IL-5 NUCLEIC ACID MOLECULES--

Applicants enclose a copy of their Amendment and Response filed January 31, 2005, wherein the title was amended; and a copy of the Final Office Action, dated April 20, 2005, which acknowledged Applicants' amendment of the title.

Respectfully submitted,

Dated: October 20, 2006

By: Richard J. Stern
Richard J. Stern, Ph.D.
Registration No. 50,668
Heska Corporation
3760 Rocky Mountain Ave.
Loveland, CO 80538
Telephone: (970) 493-7272
Facsimile: (970) 619-3011

JUN 18 2007

COPY

ATTN: MAIL STOP AMENDMENT
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Yang, Shumin
McCall, Catherine A.
Weber, Eric R.



Group Art Unit: 1636

Examiner: Kaushal, Sumesh

AMENDMENT AND RESPONSE

COPY

Serial No.: 10/787,382

Filed: February 24, 2004

Atty. File No.: IM-2-C1-C1-1

For: "CANINE IL-5 NUCLEIC ACID
MOLECULES" (as amended)

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS
BEING FACSIMILE TRANSMITTED TO EXAMINER
SUMESH KAUSHAL, FAX NO. 703-872-9306,
ADDRESSED TO MAIL STOP AMENDMENT,
COMMISSIONER FOR PATENTS, P.O. BOX 1450,
ALEXANDRIA, VA 22313-1450, THIS 31ST DAY OF
JANUARY 2005.

HESKA CORPORATION

By:

Susan A. Gordon

Susan A. Gordon

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

COPY

Dear Sir:

In response to the Office communication mailed from the U.S. Patent and Trademark Office on September 30, 2004, Applicants submit the following Amendments and Argument. Applicants also attach hereto a Petition for a one-month Extension of Time thereby extending the period for response from December 30, 2004 to January 30, 2005.

JUN 18 2007

Amendments to the Specification

Please cancel the current title, page 1, lines 1-2, and replace it with the following title:

--"CANINE IL-5 NUCLEIC ACID MOLECULES"--

On page 1, please replace the paragraph spanning lines 4-7 with the following paragraph:

--This is a continuation of U.S. Application Serial No. 09/755,633, filed January 5, 2001, now abandoned, which is a continuation-in-part of U.S. Application No. 09/322,409, filed May 28, 1999, now U.S. Patent No. 6,471,957, which claims priority to U.S. Provisional Application No. 60/087,306, filed May 29, 1998.--



UNITED STATES PATENT AND TRADEMARK OFFICE

'05 APR 25 RCU'D

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,382	02/24/2004	Shumin Yang	IM-2-C1-C1-1	5307

26949 7590 04/20/2005

HESKA CORPORATION
INTELLECTUAL PROPERTY DEPT.
1613 PROSPECT PARKWAY
FORT COLLINS, CO 80525

DOCKETED

RJS/CTV

EXAMINER

KAUSHAL, SUMESH

ART UNIT PAPER NUMBER

1636

DATE MAILED: 04/20/2005

COPY

Please find below and/or attached an Office communication concerning this application or proceeding.

Final OA

2 mo response due 6-20-05

3 mo " " 7-20-05

w/exts to 10-20-05

JUN 18 2007

Office Action Summary

Application No.

D/787,382

Applicant(s)

YANG ET AL

Examiner

Sumesh Kaushal Ph.D.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

'05 APR 25 RCV'D

Disposition of Claims

- 4) ☒ Claim(s) 19-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

JUN 18 2007



ATTN: MAIL STOP AMENDMENT
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Yang, Shumin
McCall, Catherine A.
Weber, Eric R.

Serial No.: 10/787,382

Filed: February 24, 2004

Atty. File No.: IM-2-C1-C1-1

For: "CANINE IL-5 NUCLEIC ACID
MOLECULES"

) Group Art Unit: 1633

) Examiner: Kaushal, Sumesh

) AMENDMENT AND RESPONSE

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS
BEING FACSIMILE TRANSMITTED TO EXAMINER
SUMESH KAUSHAL, PhD, FAX NO. 571-273-8300,
ADDRESSED TO MAIL STOP AMENDMENT,
COMMISSIONER FOR PATENTS, P.O. BOX 1450,
ALEXANDRIA, VA 22313-1450, THIS 4TH DAY OF
APRIL 2006.

HESKA CORPORATION

By:

Susan A. Gordon

Susan A. Gordon

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the office action mailed from the U.S. Patent and Trademark Office
("USPTO") on January 4, 2006, Applicants submit the following amendments and arguments.

JUN 18 2007

Amendments to the Claims

COPY

1-33 (Canceled)

34. (Currently amended) An isolated nucleic acid molecule comprising a nucleic acid sequence selected from the group consisting of:

(a) a nucleic acid sequence encoding a protein having the sequence of SEQ ID NO:5, SEQ ID NO:10 or ~~SEQ ID NO:20~~; and

(b) a nucleic acid sequence fully complementary to the nucleic acid sequence of (a).

35. (Previously presented) The isolated nucleic acid molecule of Claim 34, wherein said nucleic acid sequence is selected from the group consisting of SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:8, SEQ ID NO:9, SEQ ID NO:11, SEQ ID NO:18 and SEQ ID NO:19.

36. (Previously presented) The isolated nucleic acid molecule of Claim 34, wherein said nucleic acid sequence is selected from the group consisting of SEQ ID NO:4, SEQ ID NO:7 and SEQ ID NO:9.

37. (Previously presented) A composition comprising the isolated nucleic acid molecule of Claim 34.

38. (Previously presented) An isolated nucleic acid molecule comprising a nucleic acid sequence selected from the group consisting of SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:8, SEQ ID NO:9, SEQ ID NO:11, SEQ ID NO:18 and SEQ ID NO:19.

39. (Previously presented) A composition comprising the isolated nucleic acid molecule of Claim 38.

COPY

40. (Previously presented) An isolated nucleic acid molecule consisting of a nucleic acid sequence selected from the group consisting of:

(a) a nucleic acid sequence encoding the amino acid sequence of SEQ ID NO:5, SEQ ID NO:10 or SEQ ID NO:20;

(b) a nucleic acid sequence selected from the group consisting of SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:7, SEQ ID NO:8, SEQ ID NO:9, SEQ ID NO:11, SEQ ID NO:18 and SEQ ID NO:19; and

(c) a nucleic acid sequence fully complementary to the nucleic acid sequence of (a) or (b).

41. (Previously presented) A fragment of the isolated nucleic acid molecule of Claim 40, wherein said fragment is at least 45 nucleotides in length.

42. (Previously presented) A composition comprising the isolated nucleic acid molecule of Claim 40.

REMARKS

Claim 34 has been amended to remove SEQ ID NO:20.

COPY

I. Rejections Under 35 U.S.C. §112, first paragraph-written description

The Examiner has rejected Claims 34-37 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner states that while the specification fails to disclose any variants of nucleotide sequences encoding canine IL-5, the invention as claimed encompasses any and all canine IL-5-like proteins since SEQ ID NO:20 is only 15 amino acids long.

Applicants note SEQ ID NO:20 has been removed from claim 34. Thus the claim is now drawn to nucleic acid molecules comprising nucleic acid sequences encoding the disclosed, full-length, canine IL-5 protein sequence.

II. Rejections Under 35 U.S.C. §112, first paragraph- enablement

The Examiner has rejected claim 34 under 35 U.S.C. §112, as failing to comply with the enablement requirement. Specifically the Examiner states that while the specification is enabling for the nucleic acid sequences of SEQ ID NO's 4, 7 and 9 which encode the amino acid sequences of SEQ ID NO:5 and 10, it does not reasonably provide enablement for any and all variants of SEQ ID NO's 4, 7 and 9. The Examiner thus concludes the enablement provided in the specification is not commensurate with the scope of the claims.

First, Applicants note claim 34 has been amended and is no longer drawn to nucleic acid molecules comprising nucleic acid sequences encoding SEQ ID NO:20. Thus the claims do not require the identification and characterization of any and all canine IL-5 like proteins having 87-89% variation flanking across the amino acid sequences of SEQ ID NO:20 as stated by the Examiner on page 5 of the rejection.

Next, Applicants believe the specification fully enables variants of SEQ ID NO's 4, 7 and 9, which encode proteins having the sequence of SEQ ID NO's 5 or 10. As noted by the Examiner, Applicants have clearly disclosed one set of nucleic acid molecules encoding the amino acid sequences of SEQ ID NO's 5 and 10, namely, SEQ ID NO's 4, 7 and 9. Applicants contend that it is well understood by those of ordinary skill in the art that due to redundancy in the genetic code, nucleotide changes within a codon do not necessarily alter which amino acid is coded for by that codon. Thus, changes at the nucleotide level may have no effect on the amino

COPY

acid sequence of the encoded protein. Therefore, while SEQ ID NO's 4, 7 and 9 encode SEQ ID NO's 5 and 10, there are a number of variants of SEQ ID NO's 4, 7 and 9 which also encode SEQ ID NO's 5 and 10. Since the redundancy of the genetic code (also known as the wobble hypothesis) is a basic and well understood tenet of biology, the creation of such variants is not beyond the ingenuity expected of one of ordinary skill in the art.

Furthermore, Applicants respectfully disagree with the Examiner's contention that it is highly unpredictable as to whether the claimed variants would encode proteins having IL-5 like activity. While the claims encompass variants of SEQ ID NO:4, 7 or 9, it is clear from the language of claim 34 that the amino acid sequences encoded by such variants would be identical to SEQ ID NO:5 or SEQ ID NO:10. In view of the fact that proteins identical in sequence to SEQ ID NO:5 and SEQ ID NO:10 would clearly have IL-5 activity of this, Applicants contend there would be no need for one of ordinary skill in the art to engage in undue experimentation in order exercise the claimed invention.

CONCLUSION

Applicants believe the claims are in condition for allowance and solicit such from the Examiner. The Examiner is invited to contact the undersigned should any issues remain.

Respectfully submitted,

Dated: April 4, 2006

By: 

Richard J. Stern, Ph.D.
Registration No. 50,668
Heska Corporation
3760 Rocky Mountain Ave.
Loveland, CO 80538
Telephone: (970) 493-7272
Facsimile: (970) 619-3011

JUN 18 2007

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 9706193011

Fax Information

Date Received:

4/4/2006 5:28:08 PM [Eastern Daylight Time]

Total Pages:

6 (including cover page)



ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page
=====>

APR-04-2006 TUE 03:27 PM HESKA CORP IP DEPT

FAX NO. 9706193011

P. 01

Facsimile


HESKA
*The Science of Caring
for Companion Animals*

3760 Rocky Mountain Ave.
 Loveland, CO 80538
 Telephone: 970-493-7272
 Facsimile: 970 619-3011

Date: April 4, 2006

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

Name: Examiner Sumesh Kamath, Ph.D., Group Art Unit 1633

Facsimile Number: 571-273-8300

Telephone Number: 571-272-0769

Pages: 6 (including this fax cover page)

Subject: Attorney File No. IM-2-CI-CI-1

U.S. Patent Application Serial No: 10/787,352

From: Richard J. Stern, Ph.D. (970-493-7272 - Ext 4174)

Please find attached an Amendment and Response.

CONFIDENTIALITY NOTICE

The documents accompanying this FACSIMILE transmission may contain confidential information which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, or the person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone and delete this e-mail transmission from your system. Thank you.

PAGE 16 * RCVD AT 04/04/2006 5:28:08 PM [Eastern Daylight Time] * BY USPTO-EPX/RF-404 * DMS-2738300 * CSD:9706193011 * DURATION [mm:ss] 01:34

JUN 18 2007

Facsimile COPY WESKA
The Science of Caring
for Companion Animals

3760 Rocky Mountain Ave.
Loveland, CO 80538
Telephone: 970-493-7272
Facsimile: 970-619-3011

Date: April 4, 2006

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

Name: Examiner Sumesh Kaushal, Ph.D., Group Art Unit 1633

Facsimile Number: 571-273-8300

Telephone Number: 571-272-0769

Pages: 6 (including this fax cover page)

Subject: Attorney File No. IM-2-C1-C1-1

U.S. Patent Application Serial No: 10/787,382

From: Richard J. Stern, Ph.D. (970-493-7272 - Ext 4174)

Please find attached an Amendment and Response.

CONFIDENTIALITY NOTICE

The documents accompanying this FACSIMILE transmission may contain confidential information which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, or the person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in this transmission is strictly PROHIBITED. If you have received this transmission in error, please immediately notify us by telephone and mail the original transmission to us. Thank you.

JUN 18 2007

Notice of Allowability



Application No.

10/787,382

Examiner

Sumesh Kaushal Ph.D.

Applicant(s)

YANG ET AL.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/4/06.
2. ☒ The allowed claim(s) is/are 34-40 and 42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JUN 18 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

JUN 14 2007

NOTICE OF ALLOWANCE AND FEE(S) DUE

EXAMINER

KAUSHAL, SUMESH

ART UNIT

PAPER NUMBER

1633

DATE MAILED: 07/21/2006

06 JUL 25 RCV'D

26949 7590 07/21/2006

HESKA CORPORATION
INTELLECTUAL PROPERTY DEPT.
3760 ROCKY MOUNTAIN AVE
LOVELAND, CO 80538

DOCKETED

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,382	02/24/2004	Shumin Yang	IM-2-C1-C1-1	5307

TITLE OF INVENTION: CANNIE IL-5 NUCLEIC ACID MOLECULES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	10/23/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

JUN 18 2007